688

TO THE VOTERS

OF THE

FIFTH CONGRESSIONAL DISTRICT

OF

KENTUCKY.

House of Representatives of the U. S.,
Washington City, *January* 18, 1859.

Fellow-Citizens of the Fifth Congressional District: The brief period for which you re-elected me to Congress, being about to expire, and, holding under advisement the question submitted to me, by many of those who elected me in the memorable campaign of 1855, whether I will permit my name to come before the people again for re-election, I have deemed it due to the people whom I have had the honor twice to represent in the councils of the Confederacy, to address them upon such subjects as, in my opinion, will be interesting and instructive to them.

Since the campaign of 1855—a campaign which, I trust, will long be remembered by the patriots of that day—the Democratic party has very naturally become *the* party of the *South* and of the Union, and its ranks have been filled up by refugees from the ranks of its *hereditary* enemies. This is quite common—it is the fate of battle and of victory: and it is equally common for our new allies to bring with them their political notions, or at least a portion of them, and, perhaps, it might be just to say, the least obnoxious of them, and attempt, in the name of Democracy and of the Democratic party, to fasten, in a modified form, upon the Democratic party their principles and policy, and particularly their party organization and party machinery, with which, at no distant day, it may be the cherished hope of some to lead the party into the meshes of some new political organization, such as the "Sons of Malta," now operating and said to be successfully working in this Capital and the leading cities of the Union. In view, then, of the dangers, we, as Democrats, have passed through of the present and the future, it stands us in hand to see who is entrusted with our principles and our flag.

The manner of my becoming a candidate in 1855 and 1857 has been the subject of severe criticism by such of my fel-

low-citizens, their partisans and friends, as desire the place I have been called on to fill. It has been insisted that no gentleman shall announce himself a candidate for Congress, or any other office in the gift of the people, *unless* he is licensed to do so by a *caucus*—dignified of late by the name of convention. To this dogma I am unwilling to assent, and will not until the Democratic party of our District shall, in the most authoritative manner, adopt it as a fixed rule in the party organization. So far they have not done so—nor have they indicated a disposition to do so; but, on the contrary, have indicated very clearly a disposition not to abandon the ancient usage of nominating and electing their own public servants. Our theory of government is that the people are capable of doing it; our practice is, that they have done it. Then, the only question for the party now *is*: Have the people of the District heretofore made judicious nominations, and if that question can be answered in the affirmative, then there exists no *necessity* for a change in this regard of party rules. The usage of the party has been, since the District had an existence, to allow the party at large the fullest and broadest liberty in the selection of their servants, consistent with party efficiency. But, it is now said, that *expediency* demands a surrender by the people of the appointing and nominating, and consequently, in large Democratic Districts, the electing power. This, is another of the many heavy drafts that the *few* make on the *many*—town upon the country—wealth on poverty, and, finally, of the aristocratic few upon the Democratic masses.

I repeat that this surrender by the people of the right to select and *elect* their own public servants, is claimed on the score of expediency, and therefore, it is urged, should be cheerfully acceded to. To this I answer that it is a maxim of commanding authority in American politics *that nothing is expedient that is unconstitutional*, and that intervention by caucus, council, lodge or convention in selecting and electing a member of the Lower House of Congress, is clearly and palpably in conflict with the plain letter of the Federal Constitution, as well as in utter disregard of the theory upon which the Union was founded. I will not stop here to point out wherein the caucus system is violative of the true theory of the Government, as well as the Constitution. That will be attended to in another part of this address.

With your indulgence I will proceed to show what powers have been claimed, from time to time, from the beginning of this Government, commencing from its earliest existence, on the score of *expediency*. The Federalists claimed the authority to pass and enforce the Alien and Sedition laws on the ground of expediency, and the further ground that the common law of England was in force in this country *outside* of the Constitution; but Jefferson and Madison insisted that the power

must be found *inside* of the Constitution, otherwise the claim must be, and was afterwards successfully resisted—Kentucky *alone* standing by the parent State in her manly resistance to this open and dangerous violation of the Constitution. The Federalists of 1816, and the Whigs of a later period, claimed the power to establish a United States Bank on the ground of expediency, urging that it was necessary and expedient to the successful management of the finances of the Government; but the illustrious Jackson came to the rescue of the Constitution, and for the want of a better depository of the public moneys, employed temporarily the State banks, rather than violate the Constitution by establishing a national one, until Mr. Van Buren's administration when the independent treasury system was inaugurated. At a later period of the history of the Government, and when a large surplus of money had accumulated in the public treasury under the operations of the high protective tariff policy, Congress was beset on every side to enter upon a general system of internal improvements in the States; but Congress rather than violate the Constitution by commencing, for any cause whatever, a system of expenditure unauthorized by that instrument, gave millions of money to the States composing the Federal Union—in the nature of deposits. But the most striking example of authority and power claimed on the score and ground of expediency is the recent Know-Nothing assumption—I will not dignify it with the name of either principle or policy—that "none but American-born citizens and non-Catholics should rule America." They readily agreed that the Constitution forbade religious tests; yet upon the principle of *expediency*, and the further (to them) great principle of "power, pelf and plunder,"—they said, and swore to it, and stuck to it, too, until we beat them in 1855—"that American-born only and non-Catholics should rule America." Examples of power claimed, in the world's history and in the history of this Government unauthorized by Constitutional law are too numerous to justify or even authorize a report of them in a brief address of this kind. It is believed that the examples quoted are sufficient to arrest the attention of the country to the subject, and that is all that I desire.

I have already said that the convention system, in so far as it relates to the election of members to the Lower House of Congress, is at war with the original design of our fathers in establishing our Federal Union, as well as in direct conflict with the Constitution. This declaration to such as have not thought much on the subject may appear, at the first blush, to be a *mere* declaration, without facts or arguments to sustain it. But, a moment's reflection, or a single reading of the Federal Constitution, will dispel that delusion. Our fathers in the establishment of the Federal Union had in view two great objects. The first was so to found the government that

it could *never oppress the people*; and, secondly, to plant *it* upon foundations so sure and steadfast that the people could not, upon a sudden outburst of popular indignation, overturn the Government of their choice.

To accomplish these great and wise purposes, the law-making power is vested, by the Consitution, in the President, the Senate, and the House of Representatives. The President recommends to Congress what laws in his opinion they ought to make, and vetoes what laws they do make, if he thinks proper to do so. The Senate and House, are, more strictly speaking, the law-making power, the former, with some *important* constitutional limitations; the latter *without any.* Article 2d, section 2d of the Federal Constitution, and article 12th of the amended Constitution, provide for the election of President, &c. By these articles and clauses of the Constitution, the people are prohibited from voting directly for their Chief Magistrate. An electoral college intervenes between the people and this high office, which is nothing more nor less than a body of select men, appointed by the States, to collect and declare the public will in reference to the Chief Magistracy. Here is to be found the aristocratic feature of the Government. Next comes the Senate. By article 1st, section 3d, the Senators are required to be elected by the several State Legislatures, and they are to serve for a term of six years. Here State sovereignty is represented—that is, the aggregate of the entire population of a State, in their State capacity, are represented, and the sovereign will of the State reflected. On this provision of the Constitution the Legislatures of each and every State of the Union stand *immovably* between the Senate-House and the people. Now, let us see how stands the case in the matter of a Representative to the Lower House of Congress. By article 1st, and section 2d, of the Constitution—"The House of Representatives shall be composed of members chosen every second year by the *people* of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Here it will be seen that there is to be *no intervention* between the Representative in the popular branch of Congress and the *people.* No select body of men—such as the electoral college; no legislative intervention—as in the case of the election of Senators; no caucus; no council; no convention; no nothing to arrest for a single moment the sovereign will of the *people.* This department of the Government is for wise purposes confided to the *people*; there I found it, and there it may remain, so far as I am concerned *forever.* It ought to be sufficient for a State Rights, strict construction Democrat to know that such is the Constitution. But if reasons in support of this salutary provision of our fundamental law are demanded, they are at hand and in abundance. It will be re-

membered that there was great anxiety felt by the framers of our republican system of government that it should be so constructed as that it could, under no pretext whatever, *oppress the people.* Hence to this branch of the National Legislature, coming *directly* from the people, and in brief periods the power thus held returning to their hands, is confided *exclusively* the *taxing and exacting power*, which is virtually the power of declaring war; for no administration would *dare* venture upon a war policy without first sounding this branch of the Legislature to know if the money necessary to carry on a war would be by them supplied. The sole power of impeaching all high officers of Government is confided *exclusively* to the House of Representatives. Is it not, then, eminently proper that the *people*, in the *language* of the Constitution, should, every second year, elect their Congressmen. For if they give away this authority, they are completely deprived of that wise constitutional protection against taxation and oppression *without* the consent of their *immediate* representatives. All *money bills*, says the Constitution, *must* originate in the Lower House of Congress. The Senate may *only* propose amendments. Now, in conclusion of this subject, permit me respectfully to suggest, if this system of conventions, *per se*, is to be regarded as the only legitimate and Democratic mode of introducing to the people a candidate, in a district, like ours largely Democratic, and the nomination acquiesced in, and the Democratic party vote for the candidate without inquiry into his fitness or qualifications for the office, how can it be said, in the language of the Constitution, that "the *people* every second year elect their Representatives to Congress." Let the friends of the system answer. It is a source of deep regret to me, to be compelled in self defence to obtrude my views of any political question upon my fellow-citizens. But the continued and persevering assaults which have been constantly made upon me, and those who think with me, by a licentious and corrupt press, left me no means of escape, except to lay my views of the question fully and frankly before the people for their approval or rejection. I must be permitted further to say, that after a full discussion of this question, in the year 1857, and the convention system declined in every county in the district, save *one*, that I felt suprised at a renewal of the question by certain newspapers, immediately after the close of the campaign last summer, in language, and temper not usually found in well conducted Democratic journals.

To a public servant the most valued reward which he can receive is the approbation of his constituency; and it is to me a source of profound regret that, in some counties* of the District my course has failed to call forth a public endorse-

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* Washington, Marion, and Bullitt.

ment. Whilst the Administration, of which I have been a consistent supporter, has been endorsed, and whilst a gentleman outside of the State has been complimented by resolutions adopted by primary assemblages of the people, it has been my misfortune to be studiously ignored—my course as a representative has been passed over in silence, and this silence involves an implied condemnation. Under these circumstances I have examined my public record, with a view to discover wherein I have been unfaithful to my constituency. My record on the leading questions of the day has been made, and I appeal to it as my highest vindication, and I invite and challenge its scrutiny and investigation.

When I first entered the Congress of the United States, as you are aware, Know-Nothingism was the then absorbing and vital issue, and upon it I made a record plain and unmistakable. To that record I appeal, and to it I invite your attention, and ask you with the frankness of an American citizen whether it does or does not meet your approbation, and for that purpose, I reproduce an extract from a speech delivered by me in the House of Representatives, thirty-fourth Congress, on Know-Nothingism.

"We complain further of the aggressive policy of the North in denying to the Southern people the right to go into the Territories of the Union—acquired by the common treasure and blood of the people of the whole Union—with their slave property. This is what we complain of. And when the whole complaint is thus made, and understood, it is nothing more nor less than a violated Constitution which is complained of by the South. And now I submit it to the judgment of this House, if this is a greater violation of the Federal Constitution than the obligation and horrid oaths taken and subscribed to by the *intense* Americans? Are not the religious and political rights of a *native born* Roman Catholic citizen as dear to him as is the right which he and others of his fellow-citizens have to hold and enjoy their slave property under the Constitution? Are not the rights of a naturalized citizen, under the Constitution and laws of the country, as sacred as either of the rights above mentioned? Most assuredly they are; but this is not all. If we of the South violate the Constitution in one regard, how can we demand of the people of the North, to observe it in matters affecting us and our rights? If we become fanatical on the subject of religion, and of races, in so far as to violate constitutions, both State and National, how can we, as honest men, hold up the Constitution of the Union to the people of the North, and demand of them to preserve intact that instrument? We of the South should faithfully sustain the Constitution in its purity, before we can *rightfully* or successfully demand of others a similar observance of our constitutional rights. It will not do to say that there is a dangerous foreign element in the country, and that the Roman Catholic religion is anti-republican, and corrupting to the morals of our people, and that, therefore, we are justified in banding together in secret conclaves, and in a manner unknown and unrecognized by the Constitution and laws of the country, virtually to disfranchise a class of our fellow-citizens whose religious views may differ from our own; for this would be but re-establishing that odious and long-exploded system of religious and sectarian tests which, whenever it has been practiced, has only served to disgrace and injure the cause of true piety, and to retard the prosperity of the State, It has always been the pride and boast of our Republic that the avenue to power, to place, and to political elevation, was widely open to all of our citizens; and nothing could be further from the practice of the country, since the foundation of our free institutions, or more adverse to the spirit of its constitution and laws, than the proscription of men from office merely on account of their religious tenets, no matter how spotless may have been their lives, what services they may have rendered the State, or what

assurances of patriotism they may, through a long life, have given. Yet, because they hold certain dogmas not in accordance with our own, they are, forthwith, to be excluded from all places of honor, trust, or profit, in the administration of the Government, State, and Federal! This principle of the intense American party, of excluding from public employment our Catholic and naturalized citizens, *and all others who will not consent that none but native-born Protestant American citizens, who will take their oaths and subscribe their constitution, and learn their signs and grips, is held by the Democratic party to be a palpable violation of the spirit, if not of the letter, of the Constitution.*

"I am aware, Mr. Chairman, of the argument used by the *exclusive* party, in defending this principle of intense Americanism. When charged with the proscription the argument is, that they proscribe no one—that they merely pledge themselves not to vote for those who will not agree with them in their peculiar notions of ruling America. Well, sir, suppose that I were to agree with them—that in strict speech or in estimation of law, their principles, as just stated, are not proscriptive, which I do not; still it is a dangerous violation of the spirit of that clause of the Constitution which I have quoted, which declares, 'there shall be no religious test for any office or trust under the Constitution.' And again, if it should be considered that there is no proscription in the principles of this party, dare any man stand up here and say that it is not as cruel and illegal a combination (and by that I mean a conspiracy) against the political and civil rights of our Catholic and naturalized citizens, and all others who oppose them, as ever animated the hearts, or nerved the arms of a body of conspirators deliberately bent on mischief?

"Sir, if by an act of the Legislature, I am shut out from the enjoyment of a constitutional right, I have a remedy; I may either take the Constitution and the illegal enactment, and lay both before my fellow-countrymen, and insist on its repeal, or I may complain to the courts, and have the unconstitutional law set aside; but if Know-Nothingism prevails, and I am surrounded by a majority of that order, I am wholly without remedy. I am not permitted to go into their councils, and demand to be heard there, for their doors are closed against me. I cannot successfully appeal to the popular voice for redress, for a majority are sworn—yes, sir, thrice sworn, not to heed, even if they would consent to hear me. So that it is wholly immaterial whether it is proscription or conspiracy; either one is bad enough, and both violative of the spirit of the Constitution of the United States, and the constitution of the Commonwealth of which I am proud to be a citizen."

On the question of slavery in the Territories, as early as December 11th, 1856, I took ground precisely in accordance with the decision and opinion rendered afterwards in the Dred Scott case. I took the broad position that the Constitution carries slavery into a Territory. Here is my record. Does it meet the approval of my constituency:

"Mr. JEWETT.—Mr. Speaker, the reference of my colleague [H. MARSHALL] to his course and line of discussion in the late canvass, renders it proper that I should propound to him a single question. Did you not in your speech at the Big Spring, declare that the Constitution did not carry slavery into the territories?

"Mr. H. MARSHALL.—I said nothing in any speech in Kentucky, inconsistent with the exact statement I have made to-day. I will state now for the gentleman, for his party, and for the country, that I do hold that the Constitution does not carry slavery into the Territores of the United States. Let the gentleman make the most of that. I have never held that the Constitution carries slavery into a Territory.

"Mr. KEITT.—Does it carry any kind of property?

"Mr. H. MARSHALL.—No, sir, it does not carry any kind of property there. Now, let my colleague answer. Will my colleague go before the people of Big Spring, and tell them that the *Constitution does carry slavery into the Territories?*

"Mr. JEWETT.—I WILL."

This position, assumed before the opinion in the Dred Scott case was rendered, is fully and completely sustained by that

opinion, and is in accordance with it—and it is now regarded as a settled principle that the *Federal Constitution carries slavery into the Territories*. I subjoin the opinion of the Supreme Court on this point:

"It is the opinion of the Court that the act of Congress which prohibited a citizen from holding and owning property of this kind [*i. e.* slave property] in the territory of the United States north of the line therein mentioned, *is not warranted by the Constitution, and is therefore void.*"

My views on this question being in strict conformity to the opinion of the Supreme Court, I presume, are fully endorsed even by those who have passed over my course in county meetings without mention. I am not unmindful, fellow-citizens, of the solemn responsibility the public officer is under to the constituency he is called to serve. Nor do I complain of those who are now controlling the party machinery of some localities, (whether by usurpation, or regular appointment I know not,) for scrutinizing with severe rigidity my course and conduct as a man or legislator. This they have a perfect right to do. But while they are passing judgment upon me, they should remember that we all have a common master, to whose judgment we must all finally submit, whether we be Congressmen, getters up of political meetings, resolution drafters, or what not. The will of the people I have endeavored faithfully to do, and, in all time to come, I will strive to find it out and follow it, to the best of my ability—but while I shall always be careful to ascertain their will, I will be more than careful not to mistake the *clamor* of demagogues, for the voice of the people.

Fellow-citizens, in taking leave of you, I beg to be permitted to express how many obligations I am under to the Democrats of the District, for the hearty and cordial support of me, and Democratic principles, in the cruel and bloody conflict of 1855. Then, as in 1857, I stood before you, without press or purse to back me, pleading for the constitutional rights of all men—whether Greek or Barbarian, Jew or Gentile, Catholics or Protestants; it was all the same to me—and how nobly you responded to the call. Considerations of this kind, fellow-citizens, will be long remembered; they have made a lasting impression on my memory; they are deeply engraved upon my heart; and, whether the political relations, now subsisting between us, shall continue or not, I will never cease to regard my Democratic fellow-citizens of the Fifth Congressional District, as true and tried friends, carrying with me to grave the remembrance of the debt I owe them, for all that I am, and for all that I can hope to be, this side of

"That bourne from whence no traveler returns."

In conclusion, fellow-citizens,

I am yours, very respectfully,

JOSH. H. JEWETT.